



California Regional Water Quality Control Board

Los Angeles Region

Recipient of the 2001 Environmental Leadership Award from Keep California Beautiful



Linda S. Adams
Agency Secretary

320 W. 4th Street, Suite 200, Los Angeles, California 90013
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Arnold Schwarzenegger
Governor

July 8, 2009

Ms. Michelle Ng
Community Association Manager
Horizon Management Company
21535 Hawthorne Boulevard
Suite 530
Torrance, CA 90503

CERTIFIED MAIL
RETURN RECEIPT REQUESTED
CLAIM NO. 7008 1830 0004 3360 5170

**SETTLEMENT OFFER NO. R4-2009-0055-M: OFFER TO PARTICIPATE IN
EXPEDITED PAYMENT PROGRAM RELATING TO VIOLATIONS OF THE NPDES
PERMIT FOR HORIZON MANAGEMENT COMPANY, VILLA MARINA EAST V
CONDOMINIUMS, 4338 1/2 REDWOOD AVENUE, MARINA DEL REY, CA
(ORDER NO. R4-2003-0111, NPDES PERMIT NO. CAG994004, CI NO. 7892)**

Dear Permittee:

This letter is to notify Horizon Management Company (hereinafter "Permittee" or "you") of alleged violations of the California Water Code identified in the State Water Resources Control Board's water quality data system and to allow the Permittee to participate in the Los Angeles Regional Water Quality Control Board's (Regional Board) Expedited Payment Program for Effluent and/or Reporting Violations (Expedited Payment Program) to address liability that may be assessed pursuant to California Water Code sections 13385 and 13385.1.

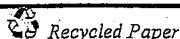
NOTICE OF VIOLATION:

Based on information in the California Integrated Water Quality System (CIWQS) as of July 3, 2009, the Regional Board alleges that the Permittee has violated the effluent limitations, reporting violations, or California Water Code provisions identified in the Notice of Violation (NOV) attached as Exhibit "A". The Permittee will have the opportunity to address the alleged violations as discussed below.

STATUTORY LIABILITY:

Subdivisions (h) and (i) of California Water Code section 13385 require the assessment of a mandatory minimum penalty of three thousand dollars (\$3,000) for specified serious and chronic effluent limit and reporting violations. For the purposes of subdivision (h) of section 13385, failure to file a discharge monitoring report required pursuant to sections 13383 for each complete period of 30 days following the deadline for submitting the report constitutes a serious

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violation. The Permittee is subject to discretionary administrative civil liabilities of up to ten thousand dollars (\$10,000) for each day in which the violation occurs, plus ten dollars (\$10) for each gallon discharged but not cleaned up in excess of 1,000 gallons. These mandatory minimum penalties and discretionary administrative civil liabilities may be assessed by the Regional Board beginning with the date that the violations first occurred.¹ The formal enforcement action that the Regional Board uses to assess such liability is an administrative civil liability complaint, although the Regional Board may instead refer such matters to the Attorney General's Office for prosecution. If referred to the Attorney General for prosecution, the Superior Court may assess up to twenty-five thousand dollars (\$25,000) per violation. In addition, the Superior Court may assess up to twenty-five dollars (\$25) per gallon discharged but not cleaned up in excess of 1,000 gallons.

OFFER TO PARTICIPATE IN EXPEDITED PAYMENT PROGRAM:

The Permittee can avoid the issuance of a formal enforcement action and settle the alleged violations identified in the attached NOV by participating in the Regional Board's Expedited Payment Program. Details of the proposed settlement are described below and addressed in the enclosed documents.

To promote resolution of these violations, the Regional Board makes this Conditional Offer. The Permittee may accept this offer, waive the Permittee's right to a hearing, and pay the mandatory minimum penalty of \$21,000 for the violations described in the NOV. If the Permittee elects to do so, subject to the conditions below, the Regional Board will accept that payment in settlement of any enforcement action that would otherwise arise out of the violations identified in the NOV.

Accordingly, the Regional Board will forego issuance of a formal administrative complaint, will not refer the violations to the Attorney General, and will waive its right to seek additional discretionary civil liabilities for the violations identified in the NOV.

The Expedited Payment Program does not address liability for any violation that is not specifically identified in the NOV.

PERMITTEE'S OPTIONS FOR RESPONSE TO OFFER:

If you accept this offer, please complete and return the enclosed "Acceptance of Conditional Resolution and Waiver of Right to Hearing; (proposed) Order" (Acceptance and Waiver) on or before **August 10, 2009**.

¹ Please note that there are no statutes of limitation that apply to administrative proceedings to assess mandatory minimum penalties. See *City of Oakland v. Public Employees' Retirement System*, (2002) 95 Cal.App.4th 29, 48; 3 Witkin, Cal. Procedure (4th ed. 1996) Actions, §405(2), p. 510.) Further, the Permittee has not been substantially prejudiced by the passage of time between the date(s) that the Permittee reported the violations identified on Exhibit A and the date of this letter. The Permittee was aware of the violations at the time it reported them to the Regional Board. Regional Board staff's limited enforcement resources and competing enforcement priorities provide a rational explanation for the delay. In fact, the delay has actually benefited the Permittee because it extended the time before payment of the mandatory minimum penalties is due. For these reasons, any delay is not unreasonable.

July 8, 2009

If the Permittee chooses to contest any of the violations alleged in the NOV, please identify the specific violation and the basis for the challenge (factual error, affirmative defense, etc.) on or before the due date specified above. The Regional Board staff will evaluate the contested violation and take one of two actions:

- 1) The Regional Board staff will determine that the violation is not supported, expunge the alleged violation from the CIWQS database, take no further action against the Permittee for the alleged violation, and notify the Permittee of that determination. The Permittee will be given thirty (30) days from the date of receipt of the Regional Board staff determination to complete and return the Acceptance and Waiver for the remainder of the violations; or
- 2) The Regional Board staff will determine that the alleged violation is meritorious, and will notify the Permittee of that determination. The Permittee will be given thirty (30) days from the date of receipt of the Regional Board staff determination to complete and return the Acceptance and Waiver.

If the Permittee chooses not to make a payment in response to the Regional Board staff's determination, the Permittee should expect to be contacted regarding formal enforcement action that will be initiated with regard to the contested violations. In a formal enforcement action, the liability amount sought and/or imposed may exceed the liability amount set forth in this Conditional Offer. Moreover, the cost of enforcement is a factor that can be considered in assessing the liability amount.

CONDITIONS FOR REGIONAL BOARD ACCEPTANCE OF RESOLUTION:

Federal regulations require the Regional Board to publish and allow the public thirty (30) days to comment on any settlement of an enforcement action addressing NPDES permit violations (40 C.F.R. section 123.27(d)(2)(iii)). Upon receipt of the Permittee's Acceptance and Waiver, the Regional Board staff will publish a notice of the proposed resolution of the violations.

If no comments are received within the 30-day comment period, and unless there are new material facts that become available to the Regional Board, the Regional Board Executive Officer will execute the Acceptance and Waiver as a stipulated order assessing the uncontested mandatory minimum penalty amount pursuant to Water Code sections 13385 and 13385.1.

If, however, significant comments are received in opposition to the settlement, this Offer may be withdrawn. In that case, the Permittee's waiver pursuant to the Acceptance and Waiver will also be treated as withdrawn. In that case, the violations will be addressed in a liability assessment proceeding. At the liability assessment hearing the Permittee will be free to make arguments as to any of the alleged violations, and the Permittee's agreement to accept this conditional offer will not in any way be binding or used as evidence against the Permittee. The Permittee will be provided with further information on the liability assessment proceeding.



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In the event the Acceptance and Waiver is executed by the Regional Board Executive Officer, full payment of the assessed amount shall be due within ten (10) calendar days after the Permittee's receipt of the notice of the Regional Board Executive Officer's execution. In accordance with California Water Code section 13385(n)(1), funds collected for violations of effluent limitations and reporting requirements pursuant to section 13385 shall be deposited in the State Water Pollution Cleanup and Abatement Account. Furthermore, in accordance with California Water Code section 13385.1(b)(1), funds collected pursuant to section 13385.1 for failure to timely file a report shall be deposited in the State Water Pollution Cleanup and Abatement Account. Accordingly, the \$21,000 liability shall be paid by cashiers or certified check for \$21,000 made out to the "State Water Pollution Cleanup and Abatement Account. Failure to pay the full penalty within the required time period may subject the Permittee to further liability.

Should you have any questions about this Conditional Offer or Notice of Violation, please contact Enforcement Unit staff Pansy Yuen at (213) 620-6367 regarding this matter.

Sincerely,



Samuel Unger, P.E.
Assistant Executive Officer

Enclosures:

Exhibit "A" - Notice of Violation

Acceptance of Conditional Resolution and Waiver of Right to Hearing; (proposed) Order

cc: Mayumi Okamoto, Office of Enforcement, State Water Resources Control Board

EXHIBIT "A" - NOTICE OF VIOLATION

Villa Marina East V Condominium
CI No. 7892

Effluent Limit Violations

Date	Monitoring Period	Violation Type	Parameter	Reported Value	Permit Limit	Units	Pollutant Category	% Exceeded	Serious/Chronic	Water Code Section 13385	Penalty
02/22/06	1st Quarter 2006	Monthly Average	TSS	60	50	mg/L	1	20%	Chronic	(i)1	\$0
02/22/06	1st Quarter 2006	Daily Maximum	Settleable Solids	0.4	0.3	ml/L	OEV	33%	Chronic	(i)1	\$0
02/22/06	1st Quarter 2006	Monthly Average	Settleable Solids	0.4	0.1	ml/L	OEV	300%	Chronic	(i)1	\$0
08/23/06	3rd Quarter 2006	Monthly Average	TSS	59	50	mg/L	1	18%	Chronic	(i)1	\$0
08/23/06	3rd Quarter 2006	Daily Maximum	Settleable Solids	0.8	0.3	ml/L	OEV	167%	Chronic	(i)1	\$0
08/23/06	3rd Quarter 2006	Monthly Average	Settleable Solids	0.8	0.1	ml/L	OEV	700%	Chronic	(i)1	\$0
11/29/06	4th Quarter 2006	Monthly Average	TSS	56	50	mg/L	1	12%	Chronic	(i)1	\$3,000
11/29/06	4th Quarter 2006	Daily Maximum	Settleable Solids	1	0.3	ml/L	OEV	233%	Chronic	(i)1	\$3,000
11/29/06	4th Quarter 2006	Monthly Average	Settleable Solids	1	0.1	ml/L	OEV	900%	Chronic	(i)1	\$3,000
05/23/07	2nd Quarter 2007	Daily Maximum	Settleable Solids	0.7	0.3	ml/L	OEV	133%	Chronic	(i)1	\$3,000
05/23/07	2nd Quarter 2007	Monthly Average	Settleable Solids	0.7	0.1	ml/L	OEV	600%	Chronic	(i)1	\$3,000
08/28/07	3rd Quarter 2007	Daily Maximum	Residual Chlorine	0.2	0.1	mg/L	2	100%	Serious	(h)1	\$3,000
02/27/08	1st Quarter 2008	Monthly Average	Settleable Solids	0.3	0.1	mg/L	OEV	200%	Chronic	(i)1	\$0
06/24/08	2nd Quarter 2008	Monthly Average	Settleable Solids	0.2	0.1	ml/L	OEV	100%	Chronic	(i)1	\$0
							Total				\$18,000

EXHIBIT "A" - NOTICE OF VIOLATION
Late Reporting Violations

Reporting Period	Violation Type	Due Date	Received Date	Days Late	# of Complete 30-Day Periods	Serious/ Chronic	Water Code Section, 13385	Amount Per 30-Day Period	Penalty
1st Quarter 2007	Late Report	05/15/2007	06/22/2007	38	1	Serious	(h)(1)	\$3,000	\$3,000
							Total		\$3,000
							Settlement Total		\$21,000



California Regional Water Quality Control Board

Los Angeles Region



Linda S. Adams
Cal/EPA Secretary

320 W. 4th Street, Suite 200, Los Angeles, California 90013
Phone (213) 576-6600 FAX (213) 576-6640 - Internet Address: <http://www.waterboards.ca.gov/losangeles>

Arnold Schwarzenegger
Governor

December 23, 2009

Ms. Michelle Sesto
Community Association Manager
Horizon Management Company
21535 Hawthorne Boulevard
Suite 530*
Torrance, CA 90503

VIA CERTIFIED MAIL
RETURN RECEIPT REQUESTED
Claim No. 7009 0820 0001 6811 0166

**RESPONSE TO REQUEST FOR ALLEGED VIOLATION REVIEW - HORIZON
MANAGEMENT COMPANY, VILLA MARINA EAST V CONDOMINIUMS, 4338 1/2
REDWOOD AVENUE, MARINA DEL REY, CA
(ORDER NO. R4-2003-0111, NPDES PERMIT NO. CAG994004, CI NO. 7892)**

Dear Ms. Sesto:

Thank you for meeting with Regional Board staff on September 1, 2009 and your letter dated September 18, 2009, responding to the July 8, 2009 Settlement Offer No. R4-2008-0055-M, which assessed mandatory minimum penalties (MMPs) for violations of effluent limitations. This letter addresses your comments in this regard.

Issue 1:

The Permittee asserts that "As we discussed, it was assumed that Chempro Laboratory, Inc. was taking samples from the bottom of the sample box instead of the outlet pipe. This has been confirmed by Chempro Laboratory in the attached letter dated September 18, 2009 which states that Chempro has never observed water running through the outlet during their times of sample collecting. Therefore, the only area samples could be taken was from the bottom of the sample box which was an ineffective area to extract samples from."

Staff Response:

Upon further review of the Permittee's 1st Quarter 2006, 3rd Quarter 2006, 4th Quarter 2006, 2nd Quarter 2007, 3rd Quarter 2007, 1st Quarter 2008, and 2nd Quarter 2008 self-monitoring reports (SMR) and based on your explanation referenced above, staff determined a total of five (5) alleged daily maximum and nine (9) alleged monthly average effluent limit violations of total suspended solids (TSS), settleable solids, and residual chlorine effluent limit violations cited on February 22, 2006, August 23, 2006, November 29, 2006, May 23, 2007, August 28, 2007, February 27, 2008, and June 24, 2008 listed in the Settlement Offer No. R4-2008-0055-M NOV were not representative samples of the effluent collected at the point of discharge. The invalid violations will be expunged from the CIWQS database. You are hereby notified that the fourteen (14) effluent limit violations cited in the Settlement Offer between the 1st Quarter 2006 and the 2nd Quarter 2008 are hereby rescinded.

Issue 2:

The Permittee states that "Additionally, the Association had Chempro monitor the meters from three locations for seven days which produced no water flow during this time. It appears from the report received by Chempro Laboratories that the ground water level has consistently been at a level too low to allow Chempro to properly take samples from the outlet pipe. Therefore, we believe that very little, if

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Ms. Michelle Sesto
Horizon Management Company

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December 23, 2009

any, groundwater was being discharged." The Permittee asserts that the violation should be expunged because there was no flow during the three days that Chempro monitored the outlet pipe.

Staff Response:

Regional Board staff cannot agree with the Permittee's request that the late report violation for the 1st Quarter 2007 report be dismissed based on total waste flow (TWF) data collected between September 3, 2009 and September 9, 2009. Although the data you have submitted indicated that no effluent was discharged between September 3, 2009 and September 9, 2009, this data does not represent your discharge during the 1st Quarter 2007. Monitoring and Reporting Program CI No. 7892 states that TWF should be recorded monthly by the Permittee. Unless the Permittee can provide proof that no discharge occurred during 1st Quarter 2007, the one (1) late report violation cited in Settlement Offer No. R4-2008-0055-M remains.

You are hereby notified that, based on your September 18, 2009 submittal to the Regional Board, the fourteen (14) effluent limit violations for TSS, settleable solids, and residual chlorine during the period February 22, 2006 through June 24, 2008, have been rescinded and the one (1) late report violation noted in the July 8, 2009 Settlement Offer No. R4-2008-0055-M NOV as indicated on the amended Exhibit "A" attached remains. However, be advised that failure to sample and report your discharge in accordance with your waste discharger requirements is a violation of Order No. R4-2003-0111 and the California Water Code and that the Permittee is ultimately responsible for compliance with the permit.

Since the Permittee requested a review of this violation, the Regional Board has established new deadlines. If you intend to participate in the Expedited Payment Program, you must sign and return the Acceptance of Conditional Resolution and Waiver of Right to Hearing form by **January 26, 2010**. By signing the Acceptance and Waiver, Horizon Management Company agrees to pay the penalty of \$3,000 as indicated on the amended Exhibit A - NOV and waives the right to a hearing.

If you do not elect to sign the Acceptance and Waiver, you will be contacted regarding formal enforcement action that will be initiated with regard to the contested violation.

If you have questions regarding this matter, please contact Ms. Pansy Yuen at (213) 620-6367 or Mr. Hugh Marley at (213) 620-6375.

Sincerely,




Samuel Unger, P.E.
Assistant Executive Officer

Enclosures:

Amended Exhibit "A" - Notice of Violation
Acceptance of Conditional Resolution and Waiver of Right to Hearing; (proposed) Order

cc: Mayumi Okamoto, Office of Enforcement, State Water Resources Control Board

California Environmental Protection Agency

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Our mission is to preserve and enhance the quality of California's water resources for the benefit of present and future generations.

EXHIBIT "A" - NOTICE OF VIOLATION
Amended Late Reporting Violations

Reporting Period	Violation Type	Due Date	Received Date	Days Late	# of Complete 30-Day Periods	Serious/ Chronic	Water Code Section 13385	Amount Per 30-Day Period	Penalty
1st Quarter 2007	Late Report	05/15/2007	06/22/2007	38	1	Serious	(b)(1)	\$3,000	\$3,000
							Total		\$3,000
							Settlement Total		\$3,000

Settlement Offer No. R4-2008-0055-M
CI No. 7892, NPDES Permit No. CAG994004

**ACCEPTANCE OF CONDITIONAL RESOLUTION
AND WAIVER OF RIGHT TO HEARING; (proposed) ORDER**

Horizon Management Company
Settlement Offer No. R4-2009-0055-M
NPDES Permit No. CAG994004

By signing below and returning this Acceptance of Conditional Resolution and Waiver of Right to Hearing (Acceptance and Waiver) to the Los Angeles Regional Water Quality Control Board (Regional Board), Horizon Management Company (Permittee) hereby accepts the "Offer to Participate in Expedited Payment Program" and waives the right to a hearing before the Regional Board to dispute the allegations of violations described in the Notice of Violation (NOV), which is attached hereto as Exhibit "A" and incorporated herein by reference.

The Permittee agrees that the NOV shall serve as a complaint pursuant to Article 2.5 of the California Water Code and that no separate complaint is required for the Regional Board to assert jurisdiction over the alleged violations through its Executive Officer. The Permittee agrees to pay the penalties required by California Water Code section 13385, in the sum of \$3,000 (Expedited Payment Amount), which shall be deemed payment in full of any civil liability pursuant to Water Code sections 13385 and 13385.1 that otherwise might be assessed for the violations described in the NOV. The Permittee understands that this Acceptance and Waiver waives the Permittee's right to contest the allegations in the NOV and the amount of civil liability for such violations.

The Permittee understands that this Acceptance and Waiver does not address or resolve liability for any violation that is not specifically identified in the NOV.

Upon execution by the Permittee, the completed Acceptance and Waiver shall be returned to:

Pansy Yuen, Enforcement Unit
Expedited Payment Program
Regional Water Quality Control Board, Los Angeles Region
320 West 4th Street, Suite 200
Los Angeles, California 90013

The Permittee understands that federal regulations set forth at title 40, Code of Federal Regulations, section 123.27(d)(2)(iii) require the Regional Board to publish notice of and provide at least 30 days for public comment on any proposed resolution of an enforcement action addressing NPDES permit violations. Accordingly, this Acceptance and Waiver, prior to execution by the Regional Board Executive Officer, will be published as required by law for public comment.

If no comments are received within the notice period that cause the Regional Board Executive Officer to question the Expedited Payment Amount, the Regional Board Executive Officer will execute the Acceptance and Waiver.

Settlement Offer No. R4-2008-0055-M
CI No. 7892, NPDES Permit No. CAG994004

The Permittee understands that if significant comments are received in opposition to the Expedited Payment Amount, the offer on behalf of the Regional Board to resolve the violations set forth in the NOV may be withdrawn. In that circumstance, the Permittee will be advised of the withdrawal and an administrative civil liability complaint may be issued and the matter may be set for a hearing before the Regional Board. For such a liability hearing, the Permittee understands that this Acceptance and Waiver executed by the Permittee will be treated as a settlement communication and will not be used as evidence in that hearing.

The Permittee further understands that once the Acceptance and Waiver is executed by the Regional Board Executive Officer, the full payment required by the deadline set forth below is a condition of this Acceptance and Waiver. In accordance with California Water Code section 13385(n)(1), funds collected for violations of effluent limitations and reporting requirements pursuant to section 13385 shall be deposited in the State Water Pollution Cleanup and Abatement Account. Furthermore, in accordance with California Water Code section 13385.1(b)(1), funds collected pursuant to section 13385.1 for failure to timely file a report shall be deposited in the State Water Pollution Cleanup and Abatement Account. Accordingly, the \$3,000 liability shall be paid by a cashiers or certified check made out to the "State Water Pollution Cleanup and Abatement Account". The payment must be submitted to the Regional Board no later than ten (10) calendar days after the date the Permittee receives written notice that the Regional Board Executive Officer has executed this Acceptance and Waiver.

I hereby affirm that I am duly authorized to act on behalf of and to bind the Permittee in the making and giving of this Acceptance and Waiver.

Horizon Management Company

By:

(Signed Name)

VERN GARRICKEL
(Printed or typed name)

(Date)

(Title)

IT IS SO ORDERED PURSUANT TO WATER CODE SECTION 13385

Date: _____

By: _____

Tracy J. Egoscue
Executive Officer